

A sale of tangible personal property for resale is exempt from Retailers' Occupation and Use Tax. Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405. (This is a GIL.)

December 17, 2004

Dear Xxxxx:

This letter is in response to your letter dated January 5, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

We have a client who is considering doing business in your state, and would like to know on which sales they need to charge sales tax. Our client is a wholesale distributor of medicines and supplies to veterinarians and other animal care organizations. If you would, please send us a list of what products would be taxable for sales tax purposes and forms to apply for a sales tax license.

Thank you for your help.

#### **DEPARTMENT'S RESPONSE:**

To register with the Illinois Department of Revenue to collect and remit taxes, a business must complete an Illinois Business Registration Application (REG-1). This form can be found on the Department's website at [www.ILTAX.com](http://www.ILTAX.com) under "Forms", "Business Registration". If you have questions concerning registration, you may call (217) 785-3707 or email us at [centreg.revenue.state.il.us](mailto:centreg.revenue.state.il.us).

We cannot provide an exhaustive list of what products are taxable, but hopefully the following information will be helpful.

The Illinois Retailers' Occupation Tax Act imposes a tax upon persons engaged in this State in the business of selling tangible personal property to purchasers for use or consumption. The tax is measured by the seller's gross receipts from such sales made in the course of such business. See 86 Ill. Adm. Code 130.101. In Illinois, Use Tax is imposed on the privilege of using, in this State, any kind of tangible personal property that is purchased anywhere at retail from a retailer. See 86 Ill. Adm. Code 150.101.

Based on the limited information provided in your letter, it appears that at least some of your sales are sales for resale. If tangible personal property is not sold for use or consumption, but rather, for resale, the seller may accept a Certificate of Resale from the purchaser. No tax is imposed on a sale of property purchased for resale. Illinois law requires a Certificate of Resale to contain the information set out in 86 Ill. Adm. Code 130.1405(b).

If, on the other hand, any sale made by you is for use or consumption by the purchaser, then, if you meet the definition of a "retailer maintaining a place of business in Illinois" described in 86 Ill. Adm. Code 150.201(i), you are responsible for collecting and remitting tax to Illinois. If a product your client distributes to a veterinarian is a drug that the veterinarian must prescribe for an animal, then the veterinarian's sale involves a service situation and it is possible that (depending upon which tax base is applicable to the veterinarian) the sale of that product to the veterinarian may be a retail sale to the veterinarian. See 86 Ill. Adm. Code 140.101 et seq. If, however, the veterinarian sells an item you distribute without a prescription, then the sale by the veterinarian is a retail sale and your sales to him would be for resale. See, for example, Department of Revenue General Information Letter ST-89-0680.

For your general information, the rules and the letter cited in this letter can be found on the Department's website. Once on the website, click on "Legal Research". Then click on "Regulations" for rules and "Sunshine Letter Rulings" for letters.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Sincerely,

Samuel J. Moore  
Associate Counsel

SJM:msk